IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 18.07.2007

CORAM:

THE HONOURABLE MR.JUSTICE A.C.ARUMUGAPERUMAL ADITYAN

Crl.R.C.No.1168 of 2004

Tmt.Abirami .. Petitioner

Vs.

1.The State of Tamil Nadu rep by
The Sub-Inspector of Police,
W3, All Women Police Station,
Kothavalchavadi,
Chennai-600001.

2.Thiru.M.Saravanan(A1)
3.Thiru.V.S.Manickam(A2)
4.Tmt.Kotteeswari (A3) .. Respondents

Prayer:- This revision has been preferred against the judgment dated 8.4.2004 made in C.C.No.6064 of 2002 on the file of the Court of III Metropolitan Magistrate, George Town, Chennai-1.

For Petitioner :Mr.M.Sathyanarayanan

For Respondents :Mr.V.R.Balasubramanian (for R1)
Additional Public Prosecutor

Mr.N.Ranganathan (for R2 to R4)

JUDGMENT

This revision has been preferred against the judgment in C.C.No.6064 of 2002 on the file of the III Metropolitan Magistrate, Chennai.

2.The case of the prosecution in a nutshell is that on 8.6.1997 the marrige between the complainant and A1 was solemnized and at that time the parents of the complainant have offered 35 soverigns of gold ornaments, other silver articles and house hold articles as the gift to the groom. According to the complainant the marriage life of the complainant with A1 went on smoothly for six months and

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thereafter there arose a misunderstanding and that A1 used to demand Rs.20 lakhs as additional dowry from the complainant and her parents. It is the further allegation of the complainant that A1 had developed illicit intimacy with one Ringu and he is living separately with her at T-Nagar.

3.After taking cognizance of the case, the learned trial judge had issued summons to the accsued and on their appearance, had furnished copies under Section 207 of Cr.P.C., and framed charge under Section 498 IPC and when questioned the accused pleaded not guilty. On the side of the prosecution P.W.1 to P.W.6 were examined and Ex.P.1 and Ex.P.2 were marked.

4.P.W.1 is the complainant. According to her, A1 is her husband and A2 is the father of A1 and A3 is the mother of A1 and that the marriage between her and A1 was solemnized on 8.6.1997 in a marriage hall at Alwarpet and at the time of marriage her parents have presented 35 soverigns of gold ornaments and other silver articles besides house hold articles and that they have also presented 5 soverign gold chain to A1 and that she and A1 lived happily at Door No.140, Pavalakara Street, Chennai, for about 5 months. Thereafter A1 had developed illicit intimacy with another woman and he used to come to the house at late hours. According to her, A1 began to treat her cruelty and also demanded Rs.20 lakhs and had driven her out of the matrimonial home by saying that unless she brings Rs20 lakhs from her parents' house she cannot enter into the house. According to her, she left the matrimonial home in April, 1998. and there was a panchayat took place on 6.7.1998, but it ended in futile. But subsequently her husband A1 took her back. But within three days he began to treat her cruelly demanding Rs.20 lakhs as additional dowry and once again in September 1998 she was driven out of the matrimonial home and thereafter about 3 ½ years continuously she was living in her parents' home and that she preferred a complaint on 10.9.2001 with the Thousand Lights Police and also with the All Women Police Station at Kothavalchavadi. Thereafter on 20.1.2002 A1 had taken her back and allowed her to reside in their house, but he was staying with another woman viz. Ringu at T-Nagar. According to her, she has been informed through telephone by her father-in-law and sister-in-law that A1 had married the said Ringu and a child was also born to them. She would admit that till 14.2.2002 she was residing in the house of A1 and thereafter since her husband had failed to maintain her, she locked the door of the house and went to her parents house and again preferred another complaint on 14.2.2002 with the All Woman Police Station at Kothavalchavadi and since the police have

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failed to take action on the complaint dated 14.2.2002, she has preferred another complaint dated 1.4.2002. In the mean time, her husband A1 had issued divorce notice dated 19.3.2002 requesting her to give her consent for consent divorce, which was suitablly replied by her. Ex.P.1 is the complaint preferred by her.

5.P.W.2 is the father of P.W.1. He would admit the relationship of the parties. He would further corroborates the evidence of P.W.1 to the effect that at the time of marriage between P.W.1 and A1 35 soverigns of gold ornaments, silver articles were presented to A1. He would admit that since the relationship between P.W.1 and A1 got strained there was a panchayat took place on 6.7.1998 and thereafter P.W.1 used to stay in her husband's house for some time. According to P.W.2, A1 had developed illicit intimacy with a Gujarathi girl viz. Ringu and that he enquried about this with A2 & A3 but they have not shown any interest in the matter and that there was a panchayat held on 6.7.1998 between A1 an P.W.1. According to him (P.W.2), A1 had demanded Rs.20 lakhs in the presence of the panchayatdars and after the panchayat A1 had taken back P.W.1 along with him, but on 15.9.1998 he had driven her out of the matrimonial home insisting her to bring Rs.20 lakhs. According to him, he was informed that A1 was residing with the said Ringu at plot No.148/8 in Millennium Apartments, at North Usman Road, T-Nagar and P.W.1 has preferred a complaint with Kothavalchavadi Police Station and also with Thousand Lights Police Station and on 20.1.2002, A1 came to his house and took back P.W.1 and they resided at Door No.42, Kothavalchavadi Garden Street, Mannadi. But he had failed to maintain her and that P.W.1 had preferred another complaint with All Women Police Station, Kothavalchavadi on 14.2.2002.

6.P.W.3-Shanmugam, is the person who had arranged the marriage between P.W.1 and A.1. He has also corroborated the evidence of P.W.1 and P.W.2.

7.P.W.4 is the brother of P.W.1. He has also corroborated the evidence of P.W.1 to P.W.3. He also speaks about the mediation took place between P.W.1 and A.1.

8.P.W.5-Murugesan, is an employee under P.W.3-Shanmugam. According to him, A1 had demanded Rs.20 lakhs from P.W.3.

9.P.W.6-Thamizharasi, is the then Sub-Inspector of Police, Kothavalchavadi Police Station. According to her P.W.1 had preferred Ex.P.1-complaint on 23.5.2002, which was registered under Cr.No.387/W3/02. She had examined the

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witnesses and recorded their statements. Ex.P.2 is the FIR. After completing the formalities, she had filed the charge sheet against the accused on 30.7.2002 under Section 498(A) IPC.

10.When incriminating circumstances were put to the accused they denied their complicity with the crime. The accused examined on their side D.W.1 to D.W.3. After going through the evidence both oral and documentary, the learned trial judge has come to the conclusion that the accused are not guilty under Section 498(A) IPC and accordingly acquitted the accused from the charges levelled against them, which necessitated the complainant to prefer this revision.

11.Now the point for determination in this revision is whether the judgment of the trial Court is perverse in nature to warrant any interference from this Court?

12.The Point:- Even according to the evidence of P.W.1 & P.W.2, A1 had demanded Rs.20 lakhs as an additional dowry in the presence of panchayatdars. But no panchayatdar was examined on the side of the prosecution to show that there was a demand of Rs.20 lakhs as an additional dowry by A1 from P.W.1. The only independent witness examined on the side of the prosecution was P.W.5, who is an employee under P.W.3. In the cross-examination P.W.5 would admit that the accused have demanded Rs.20 lakhs from P.W.3-Shanmugam. P.W.3 would depose in his evidence that the accused have demanded Rs.20 lakhs to him in the presence of P.W.5-Murugesan. Further P.W.5 in categorical terms would admit that he does not know for what purpose the demand of Rs.20 lakhs was made by the A1. Further there is absolutely no document produced on the side of the complainant to show that the complainant's father is in a very affluent situation to give Rs.20 lakhs as an additional dowry to A1. According to P.W.2, the father of P.W.1, he is working as a Production Manager in the Co-optex department. Even during marriage admittedly he has given 35 soverigns of gold ornaments and some silver articles besides house hold articles to P.W.1. To show that the accusd are in affluent position and they are not in need of Rs.20 lakhs, D.W.1 to D.W.3 were examined on the side of the accused. According to D.W.1, who is also a retired government servent, the marriage between P.W.1 and A1 was conducted by the accused and that even at the time of marriage there was no demand of dowry made by the accused and that he knows about the family of the accused for nearly 25 years. He is very firm in his stand that at no point of time A1 has subjected P.W.1 to physical or mental cruelty. D.W.2 & D.W.3 have also deposed to the fact that at no point of time the accused has made any demand of additional

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dowry to the tune of Rs.20 lakhs. Except the interested testimony of P.W.1 to P.W.3, there is no other independent witness viz, panchayatdars were examined on the side of the prosecution to prove the guilt of the accused. Only on the basis of the available evidence the learned trial judge has come to the correct conclusion that the accused are not guilty under Section 498(A) IPC. I do not find any perverseness in the findings of the learned trial judge to warrant any interference from this Court. Point is answered accordingly.

13.In fine, the revision is dismissed confirming the findings of the learned trial judge in C.C.No.6064 of 2002 on the file of the Court of III Metropolitan Magistrate, George Town, Chennai-1.

Sd/
Asst.Registrar

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Sub Asst.Registrar

ssv

To

1.The III Metropolitan Magistrate,
George Town, Chennai.

2.-do- The Chief Metropolitan Magistrate,
Egmore, Chennai.

3.The Public Prosecutor, High Court, Madras.

4.The Sub-Inspector of Police,
All Women Police Station,
Kothavalchavadi, Chennai.

+1cc to Mr.B.Sudhir Kumar, Advocate Sr 44435
+1cc to Mr.M.Sathyanarayanan, Advocate Sr 43836

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